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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER NUMBER


DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.	Applicant
09-021,370	Hashimoto Kawasaki-shi
Examiner	Group Art Unit
Daniel St. Cyr	2876



X (responsive to communication) filed on Jan 6, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- X Claim(s) 1-16 is/are pending in the application.
- Of the above, claim(s) is/are withdrawn from consideration.
- Claim(s) is/are allowed.
- X Claim(s) 1-16 is/are rejected.
- Claim(s) is/are objected to.
- Claims are subject to restriction or election requirement.

## Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on is/are objected to by the Examiner.

The proposed drawing correction, filed on is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- X Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- X All Some\* None of the CERTIFIED copies of the priority documents have been
- X received.
- received in Application No. (Series Code/Serial Number) .
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received.
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- X Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s).
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. Receipt is acknowledged of the amendment filed 1/6/00 in which claims 1-5 and 7-16 were amended.

#### ***Claim Objections***

2. Claims 2-4 are objected to because of the following informalities: Appropriate correction is required.

Claim 2, lines 3 and 5, "a" should be changed to --said--.

Re claim 3, line 2, the phrase "one of a kind and" should be deleted.

Re claim 4, line 3, the phrase "one of" should be deleted.

#### ***Claim Rejections - 35 U.S.C. § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-3, 5-10, 12-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al. US Patent No. 5,522,509.

Shimamura et al discloses an apparatus and a tableware sorting apparatus comprising: a reading means 23 for reading data in a non-contact state from a data carrier 12 attached to a container 11 of a dish selected by the customer; a calculating means 21 for calculating a charge for the one dish; a writing means is inherently included for writing the data in the data carrier in

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order for the system to operate. (See col. 4, lines 1-27); antennas 31,32, serve as an input means for inputting data to be used to calculate the charge. (See col. 4, lines 39-47); the data carrier 12 is attached to the bottom 11a of the container 11, and said reading means reads the data collectively from the data carrier of the container placed on the tray 24. (See col. 4, lines 1-27); said reading means reads price data, the kind, of each dish from the carrier and said calculating means adds up the price of each dish and calculates the charge for the one dish and outputs the kind of dish in a display. A register or a computer for storing the kind and the price, of each dish (see coll. 3, lines 24-27). (See col. 3, lines 35-52); one or more items of goods are arranged flatly so that the directions of attached data carriers is the same, and said reading means reads the data collectively from the data carriers of the one or more goods arranged flatly. (See figure 6; col. 4, lines 19-28).

Shimamura et al fail to disclose or fairly suggest that the tag is a rewritable tag. However tags, such as read-only tags, dynamic tags, and read/write tags, are notoriously old and well known in the art for storing information. Therefore, it would have been obvious for a person of ordinary skill in the art to employ read/write tags into the system of Shimamura for the purpose of allowing a user to update the information, such as price change, in the tags.

***Claim Rejections - 35 U.S.C. § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al in view of Ehrat, US Patent No. 3,836,755.

Shimamura et al do not disclose or fairly suggest a measuring means for measuring the weight of the dish or drink.

Ehrat discloses a self-service shop wherein a measuring means 182 for measuring and detecting the weight of the goods (see col. 3, lines 43-53).

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate the measuring means of Ehrat into the system of Shimamura et al for the purpose of monitoring the goods from the tray of the adjusting apparatus. Furthermore, having a measuring means into the system of Shimamura et al would allow the system to sell goods according their weight wherein the adjusting apparatus would calculate the price of the item corresponding to its weight which would make the system more practical and more versatile. Therefore, it would have been an obvious expedient.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley, US Patent No. 5,478,989.

Shepley discloses a nutritional information system for shoppers comprising: a reading means 29 for reading data in non-contact state from a data carrier, such as bar code, attached to a container of the dish or drink selected by the customer; the system calculates the nutritional

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information of the dish or drink selected by the customer, and displays the information. (See figures 3, 5; col. 7, lines 27-46). Shepley does not specifically disclose that the system displays the calorie of the dish or drink and the data carrier are rewritable. However, Official notice is taken that rewritable bar codes are notoriously old and well known in the art for writing information. Therefore, it would have been obvious to employ rewritable bar codes on the items in order to allow price updating. With regard to displaying the calories, Shepley discloses a nutritional information system for aiding customers with their purchase. Therefore, it would have been obvious for a person of ordinary skill in the art to provide customers with the ability to obtain nutritional information, including calorie information, of the dish or drink in order to allow customers to make better food choices according to specific diets which contain a predetermined amount of calories. Therefore, it would have been an obvious expedient.

***Response to Arguments***

8. Applicant's arguments filed 12/02/99 have been fully considered but they are not persuasive. (See the examiner remarks)

**REMARK:**

In response to the applicant argument, regarding claim 11, The examiner respectfully disagrees. Official notice is taken that rewritable bar code is notoriously old and well known in the art for writing information. Therefore, it would have been obvious to employ rewritable bar code into the system of Shepley in order to be able to update the information thereon. The applicant's argument is not persuasive. Refer to the rejection above.

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***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanizawa et al. US Patent No. 5,267,173, disclose a carriage running control system. Hotta et al. US Patent No. 5,521,371, discloses a rewritable bar code display medium, and image display method and image display apparatus using the same. Hotta et al. US Patent No. 5,920,844, discloses an information display method.

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to Technology Center 2800 via PTO fax machine located at Crystal plaza 4. The fax number is **(703)308-7722**.


Any inquiry concerning this communication from the examiner should be directed to **Daniel St.Cyr** whose telephone number is **(703) 305-2656**. The examiner can normally be reached between the hours of **8:00AM to 4:30PM** Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Donald T. Hajec**, can be reached at **(703) 308-4075**.

Any inquiry of general nature relating to the status of this application should be directed to the group receptionist whose telephone is **(703)308-0956**.

February 1, 2000

DS

  
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